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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,258	06/13/2001	Jane Sheetz	13977 (IND-039)	5090

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT	PAPER NUMBER
3728	6

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/880,258	Sheetz et al
	Examiner	Art Unit
	Shian T Luong	3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 April 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 10,11,20,28 and 29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9,12,17,22-27 and 30 is/are rejected.
- 7) Claim(s) 13-16,18,19,21 and 31-34 is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: \_\_\_\_\_.



***Election/Restrictions***

1. Claims 10, 11, 20, 28-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement on Inventions I and II in Paper No. 5. After careful review of the arguments and the claims, the restriction is now withdrawn with respect to the product and the method of packaging. However, the election of species will be maintained and claims 10-11, 20 and 28-29 appear to read on the non-elected species. Also, the attachment means (spring clip and adhesive area) have been grouped together and claim 8 will be examined with the elected species.

***Claim Rejections - 35 USC § 112***

2. Claims 3, 9, 17, 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 3 and 25, applicant should delete the slash and the term "fiberoptic coil assembly" to provide consistent terminology in the claims. In claim 9, each of the retainers of the molded individual coil loop retainers does not retain a single coil loop but only a portion of the single coil loop. In claim 13, the term "at the top" and in claim 17, "on top" lack proper antecedent basis. Claim 22 depends from itself. But for the purpose of this Office Action, it will depend from claim 21.

***Claim Rejections - 35 USC § 102***

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Dutchik (US 5,590,778). Dutchik discloses a package comprising an outer package 50, 54, a carrier 14 with a plurality of retainers 26 and adjacent retaining structures that retain the tube as shown in Figure 3. The closure is sealed with a top closure for sterilization of the carrier.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutchik in view of Bierman (US 5,354,282). Although Dutchik does not show an attachment means to attach the carrier to a surface, Bierman shows, as an example, a carrier with adhesive on a bottom surface to attach the carrier to a desired location. The adhesive is initially secured to a backing prior to usage. It would have been obvious in view of Bierman to provide adhesive on

the bottom portion of the carrier to attach the carrier to a surgical table to prevent unnecessary movement.

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutchik in view of Official Notice. Although Dutchik does not show a spring clip, it is conventional to use a spring clip to attach a receptacle to a surface. It would have been obvious to provide the spring clip on the carrier of Dutchik to attach the carrier to a surgical table.

8. Claims 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutchik in view of Alpern et al (US 5,230,424) and/or Sinn (US 5,353,922) and/or Hunt et al. (Des. 376,652). Dutchik does not disclose the arrangement of molded retainers as recited in claim 9. However, Alpern et al, Hunt et al, Sinn are typical examples of retainers arranged in the configuration desired for retaining the article. It would therefore have been obvious at the time the invention was made to provide a plurality of molded retainers to secure the loop of the articles in an organized manner.

9. Claims 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutchik in view of Admitted Prior Art on pages 1-2. Dutchik discloses a package comprising an outer package 50, 54, a carrier 14 with a plurality of retainers 26 and adjacent retaining structures that retain the tube as shown in Figure 3. The closure is sealed with a top closure for sterilization of the carrier. Dutchik does not disclose a fiberoptic cable but the package is suitable for any medical device. Admitted Prior Art teaches that a fiberoptic cable is one component of a medical device which must be handled gently and in a sterile fashion throughout a surgical procedure. The fiberoptic cable is generally packaged and shipped as a coil. It would have been

obvious to substitute the content of Dutchik with the fiberoptic cable as it is also a coiled product and has retainers to engage the coil.

10. Claims 27, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 23, further in view of Alpern et al (US 5,230,424). Dutchik does not disclose the arrangement of molded retainers as recited in claim 27. However, Alpern et al. teaches examples of molded retainers arranged in the configuration desired for retaining the article. It would therefore have been obvious at the time the invention was made to substitute vaccum forming with molding procedure to form the carrier tray to secure the loop of the articles in an organized manner.

#### *Allowable Subject Matter*

11. Claims 13-16, 18-19, 21, 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 17 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

13. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical

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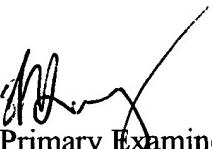
section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648.**

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the Group Technological Center FAX number is (703) 872-9302 and for After Final Amendment the number is (703) 872-9303. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on T-F from 7:00am to 4:00pm EST.

STL  
May 29, 2003



Primary Examiner  
Shian Luong  
Art Unit 3728